UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

No. 5:11-CV-256-F

LORENZO RICHARDSON,)	
Plaintiff,)	
v.)	<u>ORDER</u>
STATE OF NORTH CAROLINA and)	
DIVISION OF MENTAL HEALTH,)	
Defendants.)	

This matter is before the court for consideration of the Memorandum and Recommendation ("M&R") [DE-4] filed by United States Magistrate Judge David W. Daniel concerning the frivolity review of the *pro se* Plaintiff's complaint pursuant to 28 U.S.C. § 1915. Therein, Judge Daniel recommended that Plaintiff's complaint be dismissed on frivolity review for failure to state a claim on which relief may be granted in federal court. Plaintiff timely filed an objection [DE-6] to Judge Daniel's M&R. For the reasons stated below, the court overrules Plaintiff's objection and orders that Plaintiff's complaint be **DISMISSED** for failure to state a claim on which relief may be granted.

I. ANALYSIS

A district court may "designate a magistrate judge to submit... proposed findings of fact and recommendations for the disposition" of a variety of motions. 28 U.S.C. § 636(b)(1)(B). The court then must "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). Upon review

of the record, "the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*

In the M&R, Judge Daniel observes that the complaint fails to state a claim upon which relief may be granted. In his objection to the M&R, Plaintiff offers no argument that alters this analysis. Moreover, after a full and careful review of the M&R and the record, the court determines that the M&R is in all aspects correct and in accordance with the law. Consequently, after careful consideration of the objection and M&R de novo, the court overrules Plaintiff's objection.

II. CONCLUSION

Accordingly, the court ADOPTS the recommendation [DE-4] as its own. The court overrules Plaintiff's objection [DE-6] and orders that Plaintiff's complaint be **DISMISSED** for failure to state a claim on which relief may be granted. The Clerk of Court is directed to CLOSE this case.

SO ORDERED.

This the 16th day of August, 2011.

JAMES C. FOX Senior United States District Judge